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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/310,508 | 05/12/1999 | THOMAS W. LYNCH | THS003 | 8928 |

7590 05/24/2002

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| EXAMINER |
|---|
| PRIETO, BEATRIZ |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2152 | |

DATE MAILED: 05/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. 09/310,508 | Applicant(s) LYNCH, THOMAS W. | |
|---|---|---|---|
| | Examiner B. PRIETO | Art Unit 2152 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *12 May 1999* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-50* is/are pending in the application.

4a) Of the above claim(s) *20-50* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

## *DETAILED ACTION*

1. This communication is in response to election restriction requirement filed 03/02/02, by which claims 1-19, where elected with traverse. Claims 1-50 remain pending in instant application, claims 20-50 are withdrawn from consideration, and claims 1-19 are hereby presented for examination.

2. Drawings have been objected to by the Draftsperson under 37 CFR 1.84 or 1.152, correction noted on PTO-948 is required. A proposed drawing correction or corrected drawings are required in reply to this office action to avoid abandonment of the application. The objection to the drawings is no longer held in abeyance. If reply does not include corrected drawings, proposed corrections, or reply to the drawings requirement, the reply would be held non-responsive.

3. The disclosure is objected to because of the following informalities: on page 16, lines 21-23, recites "U.S. Patent application serial No. 09/xxx,xxx, filed by Thomas W. Lynch on May 6, 1999, and hereby incorporated herein by reference in its entirety". Appropriate correction is required.

4. The following is a quotation of 35 U.S.C. §103(a), which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kontothanassis et. al. (Kontothanassis) U.S. Patent No. 6,341,339 and Slaughter U.S. Patent No. 6,058,400.

Regarding claim 1, Kontothanassis teaches substantial features of the invention as claimed (Figs. 1-3), teaching a system/method comprising;

plurality of nodes (110) communicatively coupled with one another via any type of network (120) (col 3/lines 36-43), each node having a respective managed resources (140, 150) (col 3/lines 43-51) comprising data (col 1/lines 59-col 2/line 8);

upon detection of an event that alters the status of a group of data contained in a node (col 2/lines 9-15), event including receiving a fetch (input) operation from a remote node (col 2/lines 15-21) affecting its respective managed resources;

said event that altered the status of the group of data contained in said node is writing (transmitted) to other nodes (col 2/lines 12-15), e.g. a modification of a remote managed resource is transmitted to each other nodes managed resources copies;

each of said other nodes receiving said event that altered the status of said group of data contained in said node, maintaining current data contained in all nodes, ensuring that all nodes and sufficiently updated (col 2/lines 15-41, providing coherence to said system col 2/lines 57-59);

however Kontothanassis plurality of nodes performing claimed functions such as having respective managed resources, each node configured to receive and transmit among each other events that affect said respective managed resources in order to maintain coherence among said managed resource, as discussed above, are not particularly denoted "symbiotic partners" and do not explicitly teach where said managed resources include instances;

Slaughter teaches means for maintaining coherence of managed resources (abstract) including instances (col 6/lines 24-30, 42-44);

It would have been obvious to one ordinary skilled in the art at the time the invention was made to include in existing functional equivalent system, to include a plurality of nodes having respective instances of a managed resource, as taught by Slaughter, motivation would be to implement a cluster-based managed resource system developed from a conventional managed resource system that is easily adapter to other systems with little or no modifications, as taught by Slaughter.

Regarding claim 2, managed resources include data (Kontothanassis: col 1/lines 59-col 2/line 1); each node includes a respective instance of the data (Slaughter: col 6/lies 24-30, 42-44); modification made to an instance is made to the each of the other instances in order to maintain coherence (Kontothanassis: col 5/lines 66-col 6/line 13);

Regarding claim 3, by monitoring modification operations performed in the system modification made to any instance of data of a managed resource of a given are made to other instances of other nodes in the system maintaining coherency (Kontothanassis: col 2/lines 9-27);

Regarding claim 4, modification made to a particular instance of a managed resource (e.g. a home copy) are made to each other instances (e.g. twin copy) of the managed instance to maintain coherence (Kontothanassis: col 2/lines 9-28).

Regarding claim 5, nodes having managed resources including files, data bases, configuration files and source files (Kontothanassis, col 1/lines 30-37).

6. Claims 6-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kontothanassis et. al. (Kontothanassis) U.S. Patent No. 6,341,339 and Slaughter U.S. Patent No. 6,058,400 in further view of Choquier et. al. (Choquier) U.S. 5,774,668.

Regarding claims 6 and 10-12, substantially the same as discussed above, managed resources include an instance, (i.e. an object, in object-oriented programming in relation to the class to which it belongs, as known in the art) (Slaughter: col 6/lines 24-30), managed resources in an client-server environment (Slaughter: col 11/lines 12-17, Internet server providing displayable instances of an object class inherently);

however the above teachings do not explicitly teach where the respective instance of a managed resource is a video image;

Choquier teach a plurality of nodes communicatively coupled to one another each having a respective instance of a managed resource (Choquier; col 1/lines 41-44, col 1/lines 66-col 2/line 14, managed an instance of a created object class as known in an object-oriented environment), where each replicated application node within a service group comprises a video image (col 15/lines 13-15, col 19/lines 47-52, Fig. 12).

It would have been obvious to one ordinary skilled in the art at the time the invention was made to include instances of managed resources such as video, motivation would be to further extend Kontothanassis applicability to any type of network and Slaughter teachings applicable to any type of filesystem, motivation would be enable uninterrupted access to any type of service provided by said managed resource by transferring said services from one node to another to increase availability on demand.

Regarding claim 7, instance of the managed resource are modified via an application program (Kontothanassis; col 6/lines 26-30).

Regarding claim 8, system resides in client-server environment (Slaughter: col 2/lines 3-13, suitable for client-server environment col 11/lines 12-15).

Regarding claim 9, said node reside on a client and server node respectively (Slaughter: col 11/lies 12-15).

Regarding claim 13, any of the nodes having managed resources may change their resource and al of these changes are made to the other managed resources (Kontothanassis; col 2/lines 9-41).

Regarding claim 14, actions performed on one node are transmitted to another node (Kontothanassis: col 2/lines 9-41).

Regarding claim 15, actions are stored by the nodes (Kontothanassis: col 2/lines 9-41).

Regarding claims 16-19, actions affecting the managed resource are queried to determine whether they are consistent (Kontothanassis: col 2/lines 42-54, inquiry, step 330, col 6/lines 38-67); actions are time-stamped to determined whether they are consistent (Kontothanassis: col 6/lines 38-67); upon determining that actions are inconsistent these are rejected (Kontothanassis: col 6/lines 38-51);

Regarding claim 20, substantially the same as discussed on claim 1, said plurality of nodes operate under the condition of being communicatively connected, and associated with each other to support the receiving and transmitting actions to maintain coherence, as taught by the prior art discussed above (i.e. "symbiotic relationship")

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Prieto, B.** whose telephone number **is (703) 305-0750**. The Examiner can normally be reached on Monday-Friday from 6:00 to 3:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, **Mark H. Rinehart** can be reached on **(703) 305-4815**. The fax phone number for the organization where this application or proceeding is assigned is **(703) 308-6606**. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703) 305-3800/4700.**

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 746-7239, (for Official communications intended for entry)

Or:

(703) 746-7240 (for Non-Official or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Fourth Floor (Receptionist), further ensuring that a receipt is provided stamped "TC 2100".

B. Prieto
Patent Examiner
May 13, 2002

MEHMET B. GECKIL
PRIMARY EXAMINER